



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,830	12/20/2000	Darryl Franklin Clark	14207	8827

7590 03/21/2003

Douglas H. Tulley, Jr.  
Kimberly-Clark Worldwide, Inc.  
401 North Lake Street  
Neenah, WI 54956

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-6

<b>Office Action Summary</b>	<b>Application No.</b> 09/742,830	<b>Applicant(s)</b> CLARK ET AL.	
	<b>Examiner</b> Christopher C Pratt	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's remarks filed 1/8/03 have been entered and carefully considered. Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Election/Restrictions***

2. This application contains claims 11-20 drawn to an invention nonelected with traverse in Paper No. 4. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawyer et al (5672415), as set forth in the previous action.

Applicant argues that Sawyer does not teach applicant's claimed differential melt-flow rate limitation. However, Sawyer teaches a first polymer comprising polypropylene

Art Unit: 1771

having a melt-flow rate of 800 g/10 min and a second polymer comprising polyethylene having a melt-flow rate of 60 g/10 min (col. 3, lines 35-45). The examiner notes that this is not a 103 rejection where certain elements must be chosen or modified in the prior art, accompanied by a prima facie showing of obviousness and motivation. This is a 102 rejection, wherein Sawyer teaches applicant's claimed range of melt-flow rates.

Applicant argues that Sawyer does not teach claim 8. Sawyer anticipates this claim in two different ways. First, claim 8 depends directly from claim 1, and neither claim requires the first or second polymers to be anything other than a generic olefin. Sawyer teaches polypropylene to have a MFR of about 50. This could be considered the second polymer because Sawyer allows for the range of the first polymer to be 400 g/10 mins.

Second, the ethylene polymer can have a MFR of about 49 because Sawyer includes the word "about," which expands the endpoints of the disclosed ranges from 60 to 49.

5. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Newkirk et al (6420285 B1), as set forth in the previous action.

The examiner notes that applicant is correct in that the AIPA does apply to this application.

Applicant argues that Newkirk fails to teach applicant's claimed differential melt-flow rate limitation. However, Newkirk teaches a PE component to have a MFR of 150 and a PP component to have a MFR of 20 (col. 12, lines 10-50).

Applicant argues that Newkirk does not teach these ranges in the specific examples. The examiner notes that a reference is evaluated according to its entire disclosure and is not limited to the specific examples. Newkirk discloses applicant's claimed MFR ranges.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer et al (5672415) in view of Pike (5935883) and (5759926), as set forth in the previous action.

Applicant's traversal of this rejection relies on the arguments set forth above. Said rejection is maintained from the last action.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newkirk et al (6420285 B1) in view of Pike (5935883) and (5759926), as set forth in the previous action.

Applicant's traversal of this rejection relies on the arguments set forth above. Said rejection is maintained from the last action.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 1771

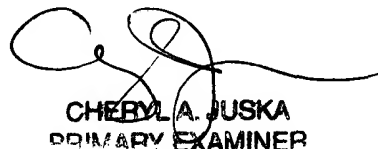
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt  
March 15, 2003



CHERYL A. JUSKA  
PRIMARY EXAMINER